IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UN	UNITED STATES OF AMERICA,) 8:11CR402					
	Plaintiff,) 0.11CR402)				
	vs.) DETENTION ORDER				
DE	REK BIRMAN,					
	Defendant.	,				
A.	Order For Detention After waiving a detention hearing pursuant Act on December 21, 2011, the Court ord pursuant to 18 U.S.C. § 3142(e) and (i).	to 18 U.S.C. § 3142(f) of the Bail Reform ers the above-named defendant detained				
B.	The Court orders the defendant's detention X By a preponderance of the evidence of the evidence of the evidence that the conditions will reasonably assure that the conditions are convincing evidence that the convincing					
C.	The Court's findings are based on the evicontained in the Pretrial Services Report, a X (1) Nature and circumstances of th X (a) The crime: a conspirace distribute methamphetan 21 U.S.C. § 846 and methamphetamine (Couloth carry a minimum semaximum of forty yes methamphetamine (Couloth carries a maximum sente (Couloth Carries a	and includes the following: ne offense charged: by to distribute and possess with intent to mine"crack" cocaine (Count I) in violation of the possession with intent to distribute ant III) in violation of 21 U.S.C. § 841(a)(1) entence of five years imprisonment and a pars imprisonment; the distribution of ant II) in violation of 21 U.S.C. § 841(a)(1) ence of twenty years imprisonment. If violence. Inarcotic drug. It is a superior of the possession with intent to many possession with intent to many possession with intent to mine "crack" cocaine (Count I) in violation of and II) in violation of 21 U.S.C. § 841(a)(1) ence of twenty years imprisonment. If violence. In arcotic drug. It is a superior of the possession with intent to mine "crack" cocaine (Count I) in violation of the possession with intent to mine "crack" cocaine (Count I) in violation of the possession with intent to mine "crack" cocaine (Count I) in violation of the possession with intent to mine "crack" cocaine (Count I) in violation of the possession with intent to mine "crack" cocaine (Count I) in violation of the possession with intent to mine "crack" cocaine (Count I) in violation of the possession with intent to mine "crack" cocaine (Count I) in violation of the possession with intent to mine "crack" cocaine (Count I) in violation of the possession with intent to mine "crack" cocaine the posses				
	X (3) The history and characteristics (a) General Factors: The defendant a may affect whete The defendant by	of the defendant including: appears to have a mental condition which ther the defendant will appear. has no family ties in the area. has no steady employment. has no substantial financial resources. s not a long time resident of the community. does not have any significant community				

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			e defendant has a prior record of failure to appear at arriver proceedings.
	(b)		of the current arrest, the defendant was on:
	(2)		bation
		Par	
			ease pending trial, sentence, appeal or completion of
	(0)		itence.
	(6)	Other Facto	e defendant is an illegal alien and is subject to
			portation.
			e defendant is a legal alien and will be subject to
			portation if convicted.
			e Bureau of Immigration and Custom Enforcement
			CE) has placed a detainer with the U.S. Marshal.
			lci
Χ	(4) The r	nature and	seriousness of the danger posed by the defendant's
	releas	se are as foll	ows: The nature of the charges in the Indictment, the
	defen	dant's drug a	buse history, and his criminal history.
V	(E) Dahu	ttabla Duago	uan Ai ana
X		ttable Presu	the defendant should be detained, the Court also relied
			rebuttable presumption(s) contained in 18 U.S.C. §
	3142(e) which the	Court finds the defendant has not rebutted:
			andition or combination of conditions will reasonably
			appearance of the defendant as required and the safety
			person and the community because the Court finds that
		the crime in	
			A crime of violence; or An offense for which the maximum penalty is life
		(2)	imprisonment or death; or
		X (3)	A controlled substance violation which has a maximum
			penalty of 10 years or more; or
		(4)	A felony after the defendant had been convicted of two
			or more prior offenses described in (1) through (3)
			above, <u>and</u> the defendant has a prior conviction for one of the crimes mentioned in (1) through (3) above
			which is less than five years old and which was
			committed while the defendant was on pretrial release.
	X (b)	That no co	ondition or combination of conditions will reasonably
			appearance of the defendant as required and the safety
			nunity because the Court finds that there is probable
		cause to be	neve: That the defendant has committed a controlled
		<u>X</u> (1)	substance violation which has a maximum penalty of
			10 years or more.
		(2)	That the defendant has committed an offense under 18
			U.S.C. § 924(c) (uses or carries a firearm during and
			in relation to any crime of violence, including a crime of
			violence, which provides for an enhanced punishment
			if committed by the use of a deadly or dangerous
			weapon or device).

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D. Additional Directives

Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

- The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;
- 2. The defendant be afforded reasonable opportunity for private consultation with counsel; and
- 3. That, on order of a court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.
- Pretrial Services shall obtain a substance abuse evaluation of the defendant and provide a copy to the court and counsel. Thereafter any party may file a motion to review detention.

DATED: December 21, 2011. BY THE COURT:

s/Thomas D. Thalken

United States Magistrate Judge